

Appl. No. 10/799,813
Amdt. Dated October 6, 2005
Reply to Office Action of July 6, 2005

Docket No. CM06187H
Customer No. 22917

REMARKS/ARGUMENTS

Claim Objections

Claim 1 has been objected to because of the following informality: in line 10, "and b) does" should be "and c) does". Claim 1 has been amended to correct the informality. Claims 5 and 11 are objected to because these claims are duplicates of one another. In response, Claim 11 has been withdrawn.

Claim Rejections – 35 USC § 112

Claims 15-18 and 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 15, 17, 22, 23, and 24 have been appropriately amended to clarify Applicants' claims.

Claim Rejections – 35 USC § 103

Claims 1-3, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, et al. (USPN 6,714,557) in view of Oliver (USPN 6,292,484) in further view of Cantoni, et al. (USPN RE37,494). Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, et al. (USPN 6,714,557) in view of Oliver (USPN 6,292,484) in further view of Cantoni, et al. (USPN RE37,494) as applied to claim 1 above, and further in view of Jordan, et al. (USPN 2004/0083393). Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, et al. (USPN 6,714,557) in view of Oliver (USPN 6,292,484) in further view of Cantoni, et al. (USPN RE37,494) as applied to claim 1 above, and further in view of Fackenthal, et al. (US 2003/0061558). Applicants, however, strongly disagree and respectfully traverse the rejection.

MPEP § 2141.03 requires:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." *In re*

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Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Regarding Claims 1-3, 23 and 24 require that "each burst" comprise "a field embedded within the burst" and such a limitation is not taught or suggested by the Smith reference, so the rejection is unsupported by the art and should be withdrawn. In support of the Examiner's rejection, the Examiner equates the time slots of Smith to the bursts of Applicants' claimed invention. Such a comparison is improper. However, for the sake of argument, if such a comparison is made, then each timeslot of Smith must comprise "a field embedded within the" timeslot. As can be seen from FIG. 2 of the Smith reference, timeslots are referred to as elements 202, 204, 206, and 208. Notice that only timeslot 202 has "a field embedded within the" timeslot and that each timeslot does not comprise "a field embedded within the" timeslot as Applicants' claims require. Notice that each timeslot in Smith will not contain "a field embedded within the" timeslot because the purpose of Smith is to remove fields from subsequent timeslots so that packet concatenation is achieved. Thus, each timeslot will not comprise fields.

As such, Smith does not teach or suggest that "each burst" comprise "a field embedded within the burst." Thus, the rejection is not supported by the art and should be withdrawn. Further since Smith does not teach or suggest a claim limitation, Smith in combination with any other reference also fails to teach the claim limitation. As such, the rejection over Smith in view of Oliver in further view of Cantoni should be withdrawn.

Allowed Claims

Claims 13, 14 and 19-21 are allowed. Further, the newly amended claims are also allowable and the rejected claims are also argued to be allowable. As such, Applicants believe that the subject application is in condition for allowance. Such action is earnestly solicited by the Applicants.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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Attachments